

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

TINA JOHNSON,
Plaintiff,

v.

DAVID THOMAS HERBERT, et al.
Defendants

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CIVIL ACTION NO. 1:22-cv-00411

**DEFENDANT KENDRICK TRANSPORT LLC'S OBJECTIONS TO PLAINTIFF'S
LIST OF WITNESSES AS SET FORTH IN THE SUPPLEMENTAL JOINT PRETRIAL
ORDER**

TO THE HONORABLE COURT:

COMES NOW, Defendant Kendrick Transport, LLC ("Kendrick" and/or "Defendant") and files its Objections to Plaintiff's List of Witnesses as set forth in the Supplemental Joint Pretrial Order and would show the Court as follows:

On October 13, 2023, the Plaintiff provided information regarding a list of witnesses that she expected to call at the time of trial in the supplemental joint pretrial order filed with the Court. For the first time, the Plaintiff disclosed Tiffany Burris as a fact witness on that supplemental pretrial order. Ms. Burris was not disclosed as a potential witness prior to October 13, 2023. The trial of this matter is set before this Court on November 6, 2023.

In accordance with Federal Rule of Civil Procedure 26(a)(3) in addition to the disclosures required by Rule 26(a)(1) and (2), a party must provide to the other parties and promptly file the following information about evidence that it may present at trial other than solely for impeachment:

- (i) The name and, if not previously provided, the address and telephone number of each witness – separately identifying those the party expects to present and those it may call if the need arises.

Unless the court orders otherwise, these disclosures must be made at least 30 days before trial. The Plaintiff failed to provide the necessary information required in accordance with Federal Rule 26 regarding their designation of Ms. Burris as a witness in this matter. Furthermore, the Plaintiff failed to timely provide that information in accordance with the deadlines set forth in Federal Rule 26. The Plaintiff should not be allowed to call Ms. Burris as a witness in this matter.

Kendrick Transport objects to the introduction of any testimony by Ms. Tiffany Burris for the reasons set forth above and objects to the Plaintiff, Tina Johnson, being allowed to present Tiffany Burris as a witness in this matter. This information was not timely disclosed in accordance with the Federal Rules of Civil Procedure nor in accordance with the deadlines set forth by this Court's Second Amended Scheduling Order regarding the close of discovery in this matter.

Respectfully submitted,

ROBERTS MARKEL WEINBERG BUTLER HAILEY PC



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**ATTORNEY FOR DEFENDANT KENDRICK
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served upon the parties by facsimile, messenger, regular U.S. Mail, certified mail, return receipt requested and/or electronic service, pursuant to the Tex. R. Civ. P. 21a this the 19th day of October, 2023.



Laura M. Cabutto